

EFFECTUATING THE ORIGINAL INTENT OF CONGRESS WITH RESPECT TO THE DUTY TO BE IMPOSED ON IMPORTED PILE MATS AND FLOOR COVERING WHOLLY OR IN CHIEF VALUE OF COCOA FIBER

MAY 5 (legislative day, APRIL 30), 1942.—Ordered to be printed

Mr. LA FOLLETTE, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 3572]

The Committee on Finance, to whom was referred the bill (H. R. 3572) to amend the tariff act of 1930, as amended by section 34 (c) of the Customs Administrative Act of 1938 (U. S. C., 1934 edition, Supp. IV, title 19, sec. 1001, par. 1529 (a)), having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

For the information of the Senate there is appended hereto and made a part of this report a letter to the chairman of the Finance Committee from the Acting Chairman of the Tariff Commission under the date of March 21, 1942, and attached memorandum setting out the purposes of the bill, reading as follows:

TARIFF COMMISSION,
Washington, D. C., March 21, 1942.

The Honorable WALTER F. GEORGE,
Chairman of the Committee on Finance, United States Senate.

DEAR SENATOR GEORGE: I have your letter of March 2, 1942, requesting our comments on H. R. 3572, Seventy-seventh Congress, entitled "An act to amend the Tariff Act of 1930, as amended by section 34 (c) of the Customs Administrative Act of 1938 (U. S. C., 1934 edition, Supp. IV, title 19, sec. 1001, par. 1529 (a)), and am enclosing a memorandum in reference thereto.

This memorandum is similar to one submitted June 6, 1939, to the Honorable R. L. Doughton, chairman of the Committee on Ways and Means of the House of Representatives, and published in report No. 184 of the Seventy-seventh Congress. The statistics have been brought up to date and some data have been added showing the import statistics under the new classification (par. 1529 (a)), in which imports of cocoa fiber pile mats and floor coverings made with cocoa fiber braid binding have been classified since the decisions of the Court of Customs and Patent Appeals in January 1940.

Enactment of H. R. 3572 would result in the classification of cocoa fiber pile mats under paragraph 1022 of the Tariff Act of 1930, as modified by the President's proclamation under section 336, at the rate of 12 cents per square foot, rather than under paragraph 1529 (a) at 90 percent ad valorem. As pointed out in the memorandum, this would restore the classification practice to that which was followed prior to the decision of the Court of Customs and Patent Appeals

above mentioned, and would result in an increase in the duty collected on mats having a value less than $13\frac{1}{2}$ cents per square foot and a decrease on mats having a value of more than $13\frac{1}{2}$ cents per square foot.

The citation to the United States Code is now superseded by the 1940 edition of the code. The citation should be changed to read: "(U. S. C., 1940 edition, title 19, sec. 1001, par. 1529 (a))."

Sincerely yours,

OSCAR B. RYDER, *Acting Chairman.*

MARCH 21, 1942.

MEMORANDUM ON H. R. 3572, SEVENTY-SEVENTH CONGRESS, ENTITLED "AN ACT TO AMEND THE TARIFF ACT OF 1930, AS AMENDED BY THE CUSTOMS ADMINISTRATIVE ACT OF 1938 (U. S. C., 1934 EDITION, SUPP. IV, TITLE 19, SEC. 1001, PAR. 1529 (A))"

The bill proposes to amend paragraph 1529 (a) of the Tariff Act of 1930, as amended, by inserting therein "1022," after the figure "1006." Paragraph 1529 (a) of the Tariff Act is the so-called lace paragraph, which, among other provisions, imposes a duty of 90 percent ad valorem on fabrics and articles wholly or in part of braid. The paragraph excepts from its scope materials and articles provided for in certain specified paragraphs of the Tariff Act, and the insertion of "1022," among these exceptions would have the effect of excluding from paragraph 1529 (a) materials and articles provided for in paragraph 1022.

Paragraph 1022 reads as follows: "Matting and articles made therefrom, wholly or in chief value of cocoa fiber or rattan, 10 cents per square yard; pile mats and floor coverings, wholly or in chief value of cocoa fiber or rattan, 8 cents per square foot." As a result of an investigation by the Tariff Commission under section 336 of the Tariff Act of 1930 (the flexible tariff provision), the President in a proclamation effective January 13, 1933, increased the rate of duty on pile mats and floor coverings, wholly or in chief value of cocoa fiber, from 8 cents per square foot, as originally provided in paragraph 1022, to 12 cents per square foot.

Prior to January 1940, cocoa fiber pile mats were classified by customs authorities under paragraph 1022. However, on January 4, 1940, the Court of Customs and Patent Appeals, in a final decision involving the question of classification of cocoa fiber pile mats (*United States v. Penn*, 27 C. C. P. A. 242) held that such mats were erroneously being classified under paragraph 1022, and that they were dutiable under paragraph 1529 (a) as articles in part of braid, at the rate of 90 percent ad valorem. The decision was predicated on the fact that the cocoa fiber mats in question were made with braided cocoa fiber bindings and were therefore in part of braid within the meaning of paragraph 1529 (a). The effect of this decision was to change the duty on cocoa fiber pile mats from 12 cents per square foot to 90 percent ad valorem.

In comparing ad valorem rates with the specific rate of 12 cents per square foot, it will be noted that the equivalent ad valorem would be under 90 percent when the value of the mats is more than $13\frac{1}{2}$ cents per square foot, and over 90 percent when the value is less than $13\frac{1}{2}$ cents per square foot.

It is reported that the present average unit value of cocoa pile mats is 10 cents per square foot on which the ad valorem equivalent of 12 cents per square foot would be 120 percent. Thus, on the basis of this unit average value, the effect of the enactment of H. R. 3572 would be to increase the ad valorem rate of duty. However, it should be noted that pile mats vary considerably in quality and in value, and a change from an ad valorem to a specific rate might cause a shift to imports of higher unit value and for any imports higher in value than $13\frac{1}{2}$ cents per square foot the duty collected would be decreased.

Cocoa fiber mats have been provided for *eo nomine* in each tariff act beginning with the Tariff Act of 1890. The variations in rates of duty are shown in the table. A large proportion of cocoa fiber pile mats are made with a braided cocoa fiber binding on both sides and ends. It is understood that most of the mats have been manufactured in this manner during the entire period under review, and, as has been pointed out, imports have been regularly assessed with duty at the rates specified in the different tariff acts on cocoa fiber mats.

United States imports of pile mats and floor coverings of cocoa fiber or rattan have been shown in the following table. Imports under the various acts between 1890 and 1922 were classified for statistical purposes as "mats of cocoa fiber or rattan," whereas imports under the act of 1930 are classified as "pile mats or floor coverings of cocoa fiber or rattan."

Although the phraseology was changed to conform with the change in wording of the different tariff acts, imports under the act of 1930 are comparable with those under preceding acts. It should be noted, also, that imports have been almost entirely of cocoa fiber mats, since pile mats are rarely made of rattan.

Mats of cocoa fiber: ¹ United States imports for consumption

Classification, tariff act, and year	Quantity	Value	Unit value	Duty		
				Total (calculated)	Specific rate	Equivalent ad valorem rate
			<i>Per square foot</i>		<i>Per square foot</i>	<i>Percent</i>
Mats of cocoa fiber or rattan (annual average):	<i>Square feet</i>					
1890.....	16,681	\$2,585	\$0.155	\$1,334	\$0.08	51.62
1894.....	(²)	178,136		35,627		20.00
1897.....	174,413	16,248	.093	7,060	.04	43.45
1909.....	557,807	54,417	.098	22,311	.04	41.00
1913.....	1,231,341	141,540	.115	36,880	.03	26.06
1922.....	3,742,396	395,038	.106	224,543	.06	56.84
Pile mats and floor coverings of cocoa fiber or rattan, 1930 tariff act:						
1930 (June 18-Dec. 31).....	1,860,912	189,822	.102	148,873	.08	78.43
1931.....	2,377,692	207,509	.087	109,212	.08	91.67
1932.....	1,957,891	111,305	.057	156,631	.08	140.72
1933 (Jan. 1-Jan. 12).....	418,482	26,485	.063	33,479	.08	126.40
Pile mats and floor coverings of cocoa fiber:						
1933 (Jan. 13-Dec. 31) ³	1,047,511	70,054	.067	125,570	.12	179.25
1934.....	1,041,046	74,018	.071	124,926	.12	168.78
1935.....	1,005,178	81,992	.082	120,621	.12	147.11
1936.....	821,847	66,132	.080	98,622	.12	149.13
1937.....	849,912	72,449	.085	101,989	.12	140.77
1938.....	452,900	39,717	.088	54,348	.12	136.84
1939.....	592,003	49,588	.084	71,040	.12	143.26
Pile mats and floor coverings of cocoa fiber: ⁴						
1940 ⁵	75,521	7,357	.097	9,063	.12	123.19
1941 (9 months) ⁵	21,148	3,117	.147	2,537	.12	81.39
Articles, wholly or in part of braid; imports from British India consisting principally of cocoa pile mats in part of braid: ⁴						
1940 ⁵	(²)	77,144		69,430		90.00
1941 (9 months) ⁵	(²)	156,177		140,559		90.00

¹ Rattan mats were included prior to Jan. 12, 1933, but amounts of these, if any, are probably negligible.

² Not recorded.

³ Rate of duty increased from 8 to 12 cents per square foot, by Presidential proclamation effective Jan. 13, 1933 (T. D. 46047).

⁴ By decision of U. S. Court of Customs and Patent Appeals (27 C. C. P. A. 242, decided Jan. 4, 1940) cocoa pile mats, in part of braid became dutiable under par. 1529 (a) at 90 percent ad valorem. Over 90 percent of the imports from British India in 1940-41 under the new classification (set up Jan. 1, 1940) "Articles wholly or in part of braid" are believed to consist of pile mats and floor coverings of cocoa fiber made in the usual way with braid binding. Relatively small amounts of imports still recorded under the classification "Pile mats and floor coverings of cocoa fiber" are presumed to be pile mats, not in part of braid.

⁵ Preliminary.

Source: Compiled from official statistics of the U. S. Department of Commerce.

United States production of cocoa pile mats and floor coverings is not separately recorded in official statistics, but information obtained by the Tariff Commission indicates that production declined from about 1,700,000 square feet, valued at \$530,000 in 1925, to about 195,000 square feet, valued at \$68,250 in 1931, then increased to about 2,034,000 square feet, valued at \$404,000 in 1937. Later information on production of cocoa pile mats and floor coverings has not been obtained.

There is also appended hereto and made a part of this report a letter to the chairman of the Finance Committee from the Acting Secretary of the Treasury under the date of March 26, 1942, and a letter to the chairman of the Finance Committee from the Acting Secretary of the Treasury, under date of March 12, 1942, reading as follows:

TREASURY DEPARTMENT,
Washington, D. C., March 26, 1942.

Hon. WALTER F. GEORGE,
Chairman, Committee on Finance, United States Senate.

MY DEAR MR. CHAIRMAN: Further reference is made to your letter of March 2, 1942, enclosing a copy of H. R. 3572, a bill to amend the Tariff Act of 1930, as

amended by section 34 (c) of the Customs Administrative Act of 1938 (U. S. C., 1934 ed., Supp. IV, title 19, sec. 1001, par. 1529 (a)) by inserting "1022" after the figure "1006", the amendment to take effect on the day following its enactment. You request an expression of this Department's views with respect to the proposed legislation.

Paragraph 1022 of the Tariff Act of 1930 (U. S. C. 1940 ed., title 19, sec. 1001, par. 1022) provides for the assessment of duty at the rate of 8 cents per square foot on imported pile mats and floor coverings, wholly or in chief value of cocoa fiber. This rate was changed to 12 cents per square foot by a proclamation of the President effective January 13, 1933, issued under the provisions of section 336 of the Tariff Act of 1930 (U. S. C. 1940 ed., title 19, sec. 1336). The same paragraph provides the rate of 10 cents per square yard for matting and articles made therefrom, wholly or in chief value of cocoa fiber or rattan.

There is enclosed for ready reference a copy of paragraph 1529 of the Tariff Act of 1930 (U. S. C. 1940 ed., title 19, sec. 1001, par. 1529). It will be noted that this paragraph imposes duty at the rate of 90 percent ad valorem on articles wholly or in part of certain classes of braids and that it is specifically provided that, with certain exceptions, such rates shall apply to articles of the character described, by whatever name known, and to whatever use applied, and whether or not named, described, or provided for elsewhere in the tariff act.

The United States Customs Court in a decision published as (1939), C. D. 146, a copy of which is enclosed, held that certain mats of cocoa fiber, with a pile surface, and bound around the edges with a braided material of coir yarn, which yarn is made of cocoa fiber, were dutiable as articles in part of braid at the rate of 90 percent ad valorem under paragraph 1529 (a) of the tariff act, rather than at the rate of 12 cents per square foot under paragraph 1022 of the same act. This ruling was subsequently affirmed by the United States Court of Customs and Patent Appeals in a decision published as (1940) C. A. D. 93, a copy of which is also enclosed.

The insertion of "1022" after the figure "1006" in paragraph 1529 (a) of the Tariff Act of 1930, as amended, would have the effect of excluding matting and articles made therefrom and pile mats and floor coverings, wholly or in chief value of cocoa fiber or rattan, and in part of braid which has been loom woven and ornamented in the process of weaving, or made by hand, or on a lace, knitting or braiding machine, from paragraph 1529 (a), leaving them to fall under paragraph 1022 of the Tariff Act of 1930. It would also exclude from paragraph 1529 materials and articles of the kinds described in paragraph 1022 of the tariff act although ornamented by the addition of fringes or other articles specified in paragraph 1529 (a) of the tariff act.

This bill, if enacted into law, would result in no administrative difficulties for the Treasury Department.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

HERBERT E. GASTON,
Acting Secretary of the Treasury.

STATE DEPARTMENT,
Washington, D. C., March 12, 1942.

The Honorable WALTER F. GEORGE,
Chairman, Committee on Finance,
United States Senate.

MY DEAR SENATOR GEORGE: I refer to your letter of March 2, 1942, enclosing a copy of H. R. 3572, a bill to amend the Tariff Act of 1930, as amended by section 34 (c) of the Customs Administrative Act of 1938 (U. S. C., 1934 ed., Supp. IV, title 19, sec. 1001, par. 1529 (a)), and requesting any comment which the Department might wish to make.

The Department has no objection to H. R. 3572, which is identical with H. R. 6328 of the Seventy-sixth Congress, to which the Department had no objection as it passed the House and prior to the amendment thereof in the Senate which caused the President to veto that bill.

Sincerely yours,

SUMNER WELLES,
Acting Secretary.